

AN ACT

To amend sections 4508.02 and 4511.093 and to enact sections 4511.204 and 4511.205 of the Revised Code to prohibit driving a vehicle while writing, sending, or reading a text-based communication on a handheld electronic wireless communications device and to establish the violation as a secondary traffic offense; to prohibit a person who is less than 18 years of age from using, in any manner, an electronic wireless communications device while driving; and to require driver education courses to include instruction in the dangers of texting while driving.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4508.02 and 4511.093 be amended and sections 4511.204 and 4511.205 of the Revised Code be enacted to read as follows:

Sec. 4508.02. (A) The director of public safety, subject to Chapter 119. of the Revised Code, shall adopt and prescribe such rules concerning the administration and enforcement of this chapter as are necessary to protect the public. The director shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(B) The director shall administer and enforce this chapter.

(C) The rules shall require twenty-four hours of classroom instruction, and eight hours of actual behind-the-wheel instruction conducted on public streets and highways of this state for all beginning drivers of noncommercial motor vehicles who are under age eighteen. The rules also shall require the classroom instruction for such drivers to include instruction in the dangers of driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication.

(D) The rules shall state the minimum hours for classroom and behind-the-wheel instruction required for beginning drivers of commercial

trucks, commercial cars, buses, and commercial tractors, trailers, and ~~semi-trailers~~ semitrailers.

Sec. 4511.093. (A)(1) No law enforcement officer who stops the operator of a motor vehicle in the course of an authorized sobriety or other motor vehicle checkpoint operation or a motor vehicle safety inspection shall issue a ticket, citation, or summons for a secondary traffic offense unless in the course of the checkpoint operation or safety inspection the officer first determines that an offense other than a secondary traffic offense has occurred and either places the operator or a vehicle occupant under arrest or issues a ticket, citation, or summons to the operator or a vehicle occupant for an offense other than a secondary offense.

(2) A law enforcement agency that operates a motor vehicle checkpoint for an express purpose related to a secondary traffic offense shall not issue a ticket, citation, or summons for any secondary traffic offense at such a checkpoint, but may use such a checkpoint operation to conduct a public awareness campaign and distribute information.

(B) As used in this section, "secondary traffic offense" means a violation of division (A) or (F)(2) of section 4507.05, division (B)(1)(a) or (b) or (E) of section 4507.071, division (A) of section 4511.204, division (C) or (D) of section 4511.81, division (A)(3) of section 4513.03, or division (B) of section 4513.263 of the Revised Code.

Sec. 4511.204. (A) No person shall drive a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(B) Division (A) of this section does not apply to any of the following:

(1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

(3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;

(4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;

(5) A person receiving wireless messages on a device regarding the

operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(6) A person receiving wireless messages via radio waves;

(7) A person using a device for navigation purposes;

(8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

(C) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (A) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(D) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(E) This section shall not be construed as invalidating, preempting, or superseding a substantially equivalent municipal ordinance that prescribes penalties for violations of that ordinance that are greater than the penalties prescribed in this section for violations of this section.

(F) As used in this section:

(1) "Electronic wireless communications device" includes any of the following:

(a) A wireless telephone;

(b) A text-messaging device;

(c) A personal digital assistant;

(d) A computer, including a laptop computer and a computer tablet;

(e) Any other substantially similar wireless device that is designed or used to communicate text.

(2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.

(3) "Write, send, or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

Sec. 4511.205. (A) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

(B) Division (A) of this section does not apply to either of the following:

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;

(3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.

(C)(1) Except as provided in division (C)(2) of this section, whoever violates division (A) of this section shall be fined one hundred fifty dollars. In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.

(2) If the offender previously has been convicted of a violation of this section, whoever violates this section shall be fined three hundred dollars. In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of one year.

(D) As used in this section, "electronic wireless communications device" includes any of the following:

(1) A wireless telephone;

(2) A personal digital assistant;

(3) A computer, including a laptop computer and a computer tablet;

(4) A text-messaging device;

(5) Any other substantially similar electronic wireless device that is

designed or used to communicate via voice, image, or written word.

SECTION 2. That existing sections 4508.02 and 4511.093 of the Revised Code are hereby repealed.

SECTION 3. For the six-month period commencing on the effective date of this act, no law enforcement officer shall issue to the operator of any motor vehicle being operated upon a street or highway within this state a ticket, citation, or summons for a violation of section 4511.204 or 4511.205 of the Revised Code, or cause the arrest of or commence a prosecution of a person for a violation of that division. Instead, during that period of time the law enforcement officer shall issue to such an operator a written warning, informing the operator of the existence of section 4511.204 or 4511.205 of the Revised Code and that after the date that is six months after the effective date of this act, a law enforcement officer who observes that the operator of a motor vehicle has committed or is committing a violation of section 4511.204 or 4511.205 of the Revised Code will be authorized to issue a ticket, citation, or summons to that operator for that violation or to cause the arrest of or commence a prosecution of such an operator for a violation of that division.

Sub. H. B. No. 99

129th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____